

Appl. No. 09/922,549
Reply to Office action of July 27, 2005

REMARKS

In response to the Final Office action, applicant has amended the subject application in order to put the application in condition for allowance. New claims are presented for the purpose of advancing the case toward allowance and differences between the new claims and previously pending claims should not be viewed as acquiescence to any of the Examiner's rejections. Applicant reserves the right to revive canceled claims, for example, in a new application. Support for each of new claims 175 to 231 can be found in the previously pending claims. Applicant submits that no new matter is introduced in this amendment.

Applicant submits that the new claims presented herein remain within the scope of the claims allowed by the Examiner. The Examiner rejected certain claims stating that what constitutes "a protein of pharmaceutical interest" is broadly interpreted and that the promoter region is operably linked to a chicken lysozyme gene, therefore it is inherently functional as a gene expression controlling region for "a protein of pharmaceutical interest." Though applicant traverses the rejection, new claims include the feature of "a heterologous protein of pharmaceutical interest" (emphasis added).

The Examiner states that the use of trademarks such as those at page 29 should be capitalized wherever they appear and be accompanied by their generic terminology. Applicant has been able to comply with the Examiner's request in part. Trademarks have been capitalized and accompanied by a ® where they appear in the specification. The exact make-up of certain of the trademarked compositions (i.e., generic terminology) appears not to be disclosed by the maker (i.e., EFFECTENE®, SUPERFECT® and DIMRIE C™, MAXIFECTIN®, UNIFECTIN®). Applicant points out that the compositions referred to in the application by trademark name are only examples of transfecting agents and are not central to any of the claims. In addition, applicant submits that the trademarked compositions are sufficiently definite in meaning since an artisan of ordinary skill would be able to obtain each of the trademarked compositions from the maker in order to perform transfections. Therefore, applicant believes that the amended paragraph of page 29 is in compliance with the requirements for the use of trademark names. Applicant submits that if applicant's amending of the specification with regard to

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trademark names is deemed insufficient by the Examiner, applicant will delete the trademark names as is necessary.

In addition to identifying trademark names, applicant has corrected obvious typographical errors in the spelling of "LIPOFECTAMINE", "EFFECTENE" and "SUPERFECT". In addition, applicant has added the full chemical name for DOTMA.

If any issues remain to be addressed in this matter, which might be resolved by discussion, the Examiner is respectfully requested to call applicants' undersigned counsel at the number indicated below.

If a fee is required for this application, the Commissioner is authorized to deduct such a fee from Deposit Account No. 501729. Please deduct any additional fees from, or credit any overpayment to, the above-noted Deposit Account.

Respectfully submitted,



Kyle Yesland, 706-277-1170, ext 233
Attorney for Applicants
Reg. No. 45,526
AviGenics, Inc.
Legal Department
111 Riverbend Road
Athens, Georgia 30605